

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 DENG M. KUMDAK,)
09 Petitioner,) CASE NO. C07-1210-BHS-MAT
10 v.)
11 KENNETH QUINN,) REPORT AND RECOMMENDATION
12 Respondent.)
_____)

14 This is a federal habeas action brought pursuant to 28 U.S.C. § 2254. On April 24,
15 2008, the undersigned issued an Order staying this action pending resolution of petitioner's
16 personal restraint proceedings in the Washington courts. (Dkt. 27.) The parties were
17 specifically directed in that Order to notify the Court within thirty days of the date on which
18 petitioner's personal restraint proceedings concluded in the state courts. (*See id.*) Having
19 heard nothing from the parties for an extended period of time, this Court undertook an
20 independent review of the state court dockets relating to petitioner's personal restraint
21 proceedings. The Court determined from its review of the state court dockets that petitioner's
22 personal restraint proceedings had concluded in late 2009 at approximately the same time

01 petitioner likely would have completed the sentence imposed for the conviction he sought to
02 challenge in this action.

03 Because these factors, taken together, suggested that petitioner had likely abandoned
04 this action, this Court, on October 10, 2013, issued an Order directing petitioner to show cause
05 why this action should not be dismissed for failure to prosecute. (Dkt. 32) On October 22,
06 2013, the copy of the Order mailed to petitioner at his address of record, the Monroe
07 Correctional Complex, was returned as undeliverable with a notation indicating that the
08 addressee was unknown and that the correspondence could not be forwarded. (Dkt. 33.) To
09 date, petitioner has not provided the Court with a new address.

Because over sixty days have passed since mail directed to petitioner at his address of record was returned by the post office, and because petitioner has not notified the Court of his current address, this action should be DISMISSED, without prejudice, for failure to prosecute pursuant to LCR 41(b)(2). A proposed order accompanies this Report and Recommendation.

14 DATED this 29th day of January, 2014.

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Mary Alice Theiler
Chief United States Magistrate Judge